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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2190**

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**Introduced by Assembly Members Benoit and Vargas**  
**(Coauthors: Assembly Members Bogh, Chan, Cogdill, Daucher,**  
**Harman, Shirley Horton, Huff, La Suer, Maze, Mountjoy,**  
**Saldana, Spitzer, and Walters)**

(Coauthors: Senators Cox and Margett)

February 22, 2006

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An act to ~~amend Sections 23104 and 23109 of~~ *add Sections 23105 and 23109.1 to* the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2190, as amended, Benoit. Vehicles: reckless driving and motor vehicle speed contests.

(1) Existing law requires a person convicted of reckless driving that proximately causes great bodily injury, as defined, to a person other than the driver, who has previously been convicted of a violation of one of specified provisions related to reckless driving, motor vehicle speed contests, and driving under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, to be punished by imprisonment in the state prison, by imprisonment in a county jail for not less than 30 days nor more than

6 months, or by a fine of not less than \$220 nor more than \$1,000, or by both the fine and imprisonment.

~~This bill would delete the condition that the person previously has been convicted of a violation of one of those specified provisions. The bill would express the intent of the Legislature that only the most egregious violations of the above, should be charged as a felony. By expanding the scope of a crime, the bill would impose a state-mandated local program: require a person convicted of reckless driving that proximately causes one or more of various specified injuries to a person other than the driver to be punished in the same manner. By creating a new crime, the bill would impose a state-mandated local program.~~

(2) Existing law ~~provides~~ *requires* that if a person is convicted of engaging in a motor vehicle speed contest on a highway ~~and the motor vehicle speed contest proximately causes bodily injury to a person other than the driver, the person is punishable by imprisonment in a county jail for not less than 30 days nor more than 6 months or by a fine of not less than \$500 nor more than \$1,000, or by both the fine and imprisonment. Existing law requires the convicted person's privilege to operate a motor vehicle be suspended for 90 days to 6 months, if ordered by the court. Existing law requires, if that conviction is for engaging in a motor vehicle speed contest within 5 years of the date of the commission of that same offense that resulted in a conviction, and the most recent offense proximately causes bodily injury to another person, the person to be punished by both that imprisonment and that fine: for an offense that occurred within 5 years of the date of a prior offense that resulted in a conviction for engaging in a motor vehicle speed contest on a highway, and the perpetration of the most recent offense proximately causes serious bodily injury, as defined, to a person other than the driver, the convicted person to be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a fine of not less than \$500 nor more than \$1,000.~~

~~This bill would delete the separate punishment for the offense of engaging in a motor vehicle speed contest that occurred within 5 years of committing the same offense and proximately causes bodily injury to another person. With respect to the punishment for engaging in a motor vehicle speed contest that proximately causes bodily injury to a person other than the driver, the bill would increase to 6 months the time that the person's privilege to operate a motor vehicle's required~~

~~to be suspended, if ordered by the court. require a person convicted of engaging in a motor vehicle speed contest that proximately causes one or more of various specified injuries to a person other than the driver to be punished by imprisonment in the state prison, or by imprisonment in a county jail for not less than 30 days nor more than 6 months, or by a fine of not less than \$500 nor more than \$1,000, or by both that fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program.~~

~~(3) Existing law requires, if the most recent offense in that 5-year period proximately causes serious bodily injury, as defined, to another person, the convicted person to be punished by imprisonment in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a specified fine.~~

~~The bill would require, instead, that if a person is convicted of engaging in a motor vehicle speed contest on a highway, without regard to prior convictions, and the motor vehicle speed contest proximately causes great bodily injury, as the bill would define that term, to a person other than the driver, the convicted person to be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a specified fine. The bill would express the intent of the Legislature that only the most egregious violations of the above should be charged as a felony. By changing the punishment for a crime, the bill would impose a state-mandated local program.~~

~~(4)~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.~~

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 23105 is added to the Vehicle Code, to  
2     read:

3     23105. (a) A person convicted of reckless driving in violation  
4     of Section 23103 that proximately causes one or more of the

1 *injuries specified in subdivision (b) to a person other than the*  
2 *driver, shall be punished by imprisonment in the state prison, or*  
3 *by imprisonment in a county jail for not less than 30 days nor*  
4 *more than six months, or by a fine of not less than two hundred*  
5 *twenty dollars (\$220) nor more than one thousand dollars*  
6 *(\$1,000), or by both that fine and imprisonment.*

7 *(b) This section applies to all of the following injuries:*

8 *(1) A loss of consciousness.*

9 *(2) A concussion.*

10 *(3) A bone fracture.*

11 *(4) A protracted loss or impairment of function of a bodily*  
12 *member or organ.*

13 *(5) A wound requiring extensive suturing.*

14 *(6) A serious disfigurement.*

15 *(7) Brain injury.*

16 *(8) Paralysis.*

17 *(c) This section does not preclude or prohibit prosecution*  
18 *under any other provision of law.*

19 *SEC. 2. Section 23109.1 is added to the Vehicle Code, to*  
20 *read:*

21 *23109.1. (a) A person convicted of engaging in a motor*  
22 *vehicle speed contest in violation of subdivision (a) of Section*  
23 *23109 that proximately causes one or more of the injuries*  
24 *specified in subdivision (b) to a person other than the driver,*  
25 *shall be punished by imprisonment in the state prison, or by*  
26 *imprisonment in a county jail for not less than 30 days nor more*  
27 *than six months, or by a fine of not less than five hundred dollars*  
28 *(\$500) nor more than one thousand dollars (\$1,000), or by both*  
29 *that fine and imprisonment.*

30 *(b) This section applies to all of the following injuries:*

31 *(1) A loss of consciousness.*

32 *(2) A concussion.*

33 *(3) A bone fracture.*

34 *(4) A protracted loss or impairment of function of a bodily*  
35 *member or organ.*

36 *(5) A wound requiring extensive suturing.*

37 *(6) A serious disfigurement.*

38 *(7) Brain injury.*

39 *(8) Paralysis.*

1     (c) *This section does not preclude or prohibit prosecution*  
2     *under any other provision of law.*

3     SEC. 3. *No reimbursement is required by this act pursuant to*  
4     *Section 6 of Article XIII B of the California Constitution because*  
5     *the only costs that may be incurred by a local agency or school*  
6     *district will be incurred because this act creates a new crime or*  
7     *infraction, eliminates a crime or infraction, or changes the*  
8     *penalty for a crime or infraction, within the meaning of Section*  
9     *17556 of the Government Code, or changes the definition of a*  
10    *crime within the meaning of Section 6 of Article XIII B of the*  
11    *California Constitution.*

12    ~~SECTION 1. Section 23104 of the Vehicle Code is amended~~  
13    ~~to read:~~

14    ~~23104. (a) Except as provided in subdivision (b), whenever~~  
15    ~~reckless driving of a vehicle in violation of Section 23103~~  
16    ~~proximately causes bodily injury to a person other than the~~  
17    ~~driver, the person driving the vehicle shall, upon conviction of~~  
18    ~~reckless driving, be punished by imprisonment in a county jail~~  
19    ~~for not less than 30 days nor more than six months or by a fine of~~  
20    ~~not less than two hundred twenty dollars (\$220) nor more than~~  
21    ~~one thousand dollars (\$1,000), or by both the fine and~~  
22    ~~imprisonment.~~

23    ~~(b) (1) A person convicted of reckless driving in violation of~~  
24    ~~Section 23103 that proximately causes great bodily injury, as~~  
25    ~~defined in Section 12022.7 of the Penal Code, to a person other~~  
26    ~~than the driver shall be punished by imprisonment in the state~~  
27    ~~prison, by imprisonment in a county jail for not less than 30 days~~  
28    ~~nor more than six months, or by a fine of not less than two~~  
29    ~~hundred twenty dollars (\$220) nor more than one thousand~~  
30    ~~dollars (\$1,000), or by both the fine and imprisonment.~~

31    ~~(2) It is the intent of the Legislature that by expanding the~~  
32    ~~scope of the offense described in paragraph (1), that only the~~  
33    ~~most egregious violations of paragraph (1) should be charged as~~  
34    ~~a felony.~~

35    ~~SEC. 2. Section 23109 of the Vehicle Code is amended to~~  
36    ~~read:~~

37    ~~23109. (a) A person shall not engage in a motor vehicle~~  
38    ~~speed contest on a highway. As used in this section, a motor~~  
39    ~~vehicle speed contest includes a motor vehicle race against~~  
40    ~~another vehicle, a clock, or other timing device. For purposes of~~

1 this section, an event in which the time to cover a prescribed  
2 route of more than 20 miles is measured, but where the vehicle  
3 does not exceed the speed limits, is not a speed contest.

4 (b) A person shall not aid or abet in a motor vehicle speed  
5 contest on a highway.

6 (c) A person shall not engage in a motor vehicle exhibition of  
7 speed on a highway, and a person shall not aid or abet in a motor  
8 vehicle exhibition of speed on a highway.

9 (d) A person shall not for the purpose of facilitating or aiding  
10 or as an incident to a motor vehicle speed contest or exhibition  
11 upon a highway in any manner obstruct or place a barricade or  
12 obstruction or assist or participate in placing a barricade or  
13 obstruction upon a highway.

14 (e) A person convicted of a violation of subdivision (a) shall  
15 be punished by imprisonment in a county jail for not less than 24  
16 hours nor more than 90 days or by a fine of not less than three  
17 hundred fifty-five dollars (\$355) nor more than one thousand  
18 dollars (\$1,000), or by both that fine and imprisonment. That  
19 person shall also be required to perform 40 hours of community  
20 service. The court may order the privilege to operate a motor  
21 vehicle suspended for 90 days to six months, as provided in  
22 paragraph (8) of subdivision (a) of Section 13352. The person's  
23 privilege to operate a motor vehicle may be restricted for 90 days  
24 to six months to necessary travel to and from that person's place  
25 of employment and, if driving a motor vehicle is necessary to  
26 perform the duties of the person's employment, restricted to  
27 driving in that person's scope of employment. This subdivision  
28 does not interfere with the court's power to grant probation in a  
29 suitable case.

30 (f) (1) If a person is convicted of a violation of subdivision (a)  
31 and that violation proximately causes bodily injury to a person  
32 other than the driver, the person convicted is punishable by  
33 imprisonment in a county jail for not less than 30 days nor more  
34 than six months or by a fine of not less than five hundred dollars  
35 (\$500) nor more than one thousand dollars (\$1,000), or by both  
36 the fine and imprisonment.

37 (2) If a person is convicted of a violation of subdivision (a) for  
38 an offense that occurred within five years of the date of a prior  
39 offense that resulted in a conviction of a violation of subdivision  
40 (a), that person shall be punished by imprisonment in a county

1 jail for not less than four days nor more than six months, and by  
2 a fine of not less than five hundred dollars (\$500) nor more than  
3 one thousand dollars (\$1,000):

4 (3) (A) If a person is convicted of a violation of subdivision  
5 (a) and in the commission of that violation proximately causes  
6 great bodily injury, as defined in Section 12022.7 of the Penal  
7 Code, to a person other than the driver, the person convicted shall  
8 be imprisoned in the state prison, or in a county jail for not less  
9 than 30 days nor more than one year, and by a fine of not less  
10 than five hundred dollars (\$500) nor more than one thousand  
11 dollars (\$1,000):

12 (B) It is the intent of the Legislature that by expanding the  
13 scope of the offense described in subparagraph (A), that only the  
14 most egregious violations of subparagraph (A) should be charged  
15 as a felony:

16 (4) The court shall order the privilege of a person convicted  
17 under paragraph (1), (2), or (3), to operate a motor vehicle  
18 suspended for a period of six months, as provided in paragraph  
19 (9) of subdivision (a) of Section 13352. In lieu of the suspension,  
20 the person's privilege to operate a motor vehicle may be  
21 restricted for six months to necessary travel to and from that  
22 person's place of employment and, if driving a motor vehicle is  
23 necessary to perform the duties of the person's employment,  
24 restricted to driving in that person's scope of employment. This  
25 subdivision does not interfere with the court's power to grant  
26 probation in a suitable case:

27 (g) If the court grants probation to a person punishable under  
28 subdivision (f), in addition to the provisions of subdivision (f)  
29 and any other terms and conditions imposed by the court, that  
30 may include a fine, the court shall impose as a condition of  
31 probation that the person be confined in a county jail for not less  
32 than 48 hours nor more than six months. The court shall order the  
33 person's privilege to operate a motor vehicle to be suspended for  
34 a period of six months, as provided in paragraph (9) of  
35 subdivision (a) of Section 13352 or restricted pursuant to  
36 subdivision (f):

37 (h) If a person is convicted of a violation of subdivision (a)  
38 and the vehicle used in the violation is registered to that person,  
39 the vehicle may be impounded at the registered owner's expense  
40 for not less than one day nor more than 30 days:

1     ~~(i) A person who violates subdivision (b), (c), or (d) shall upon~~  
2 ~~conviction thereof be punished by imprisonment in a county jail~~  
3 ~~for not more than 90 days or by a fine of not more than five~~  
4 ~~hundred dollars (\$500), or by both that fine and imprisonment.~~

5     ~~(j) If a person's privilege to operate a motor vehicle is~~  
6 ~~restricted by a court pursuant to this section, the court shall~~  
7 ~~clearly mark the restriction and the dates of the restriction on that~~  
8 ~~person's driver's license and promptly notify the Department of~~  
9 ~~Motor Vehicles of the terms of the restriction in a manner~~  
10 ~~prescribed by the department. The Department of Motor Vehicles~~  
11 ~~shall place that restriction in the person's records in the~~  
12 ~~Department of Motor Vehicles and enter the restriction on any~~  
13 ~~license subsequently issued by the Department of Motor Vehicles~~  
14 ~~to that person during the period of the restriction.~~

15     ~~(k) The court may order that a person convicted under this~~  
16 ~~section, who is to be punished by imprisonment in a county jail,~~  
17 ~~be imprisoned on days other than days of regular employment of~~  
18 ~~the person, as determined by the court.~~

19     ~~(l) This section shall be known and may be cited as the Louis~~  
20 ~~Friend Memorial Act.~~

21     ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
22 ~~Section 6 of Article XIII B of the California Constitution because~~  
23 ~~the only costs that may be incurred by a local agency or school~~  
24 ~~district will be incurred because this act creates a new crime or~~  
25 ~~infraction, eliminates a crime or infraction, or changes the~~  
26 ~~penalty for a crime or infraction, within the meaning of Section~~  
27 ~~17556 of the Government Code, or changes the definition of a~~  
28 ~~crime within the meaning of Section 6 of Article XIII B of the~~  
29 ~~California Constitution.~~